1	Oliver D. Smith			
2	7 Aldenham Road Radlett, Hertfordshire			
3	WD7 8AU, England oliveratlantis@gmail.com			
4	Pro se			
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6	UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO			
7				
8				
9	OLIVER D. SMITH) Case No. 1:25-cv-00228-GFJ-JMR		
10	Plaintiff,	MOTION FOR COSTS OF SERVICE		
11	VS.))		
12	RATIONALWIKI FOUNDATION))		
13	(AKA RATIONALMEDIA FOUNDATION)))		
14	Defendant))		
15				
16	MOTION FOR COSTS OF SERVICE			
17				
18	As the Plaintiff (Oliver D. Smith) in the above-captioned matter, I hereby request my costs			
19	(which total \$28.43) for serving by post: (a) my notice of a lawsuit and request to waive service of a			
20	summons and (b) waiver of the service of summons forms (ECF #15) pursuant to Fed. R. Civ. P.			
21	4(d)(2)(A) because the Defendant (Rational Media Foundation) failed to waive service of summons:			
22	+(u)(2)(11) because the Defendant (Rational Wedia	roundation, railed to warve service of summons.		
23	(2) Failure to Waive. If a defendant located within the United States fails, without good			
24	cause, to sign and return a waiver requested by a plaintiff located within the United States,			
25	the court must impose on the defendant:			
26	(A) the expenses later incurred in making service; and			
27	(B) the reasonable expenses, including attorney's fees, of any motion required to collect those service expenses			
	A THUSE SELVICE EXTRUSES			

those service expenses.

BACKGROUND

I filed a defamation lawsuit against the Defendant on 5 March 2025 (ECF #1). The Court has respectfully granted my *in forma pauperis* application (ECF #4) since I could not afford Court fees (\$405) for filing since my only income is a disability benefit. An accompanying text to the Order (text only entry on CM/ECF) then directed me to serve the Defendant a copy of Consent to Proceed/Refusal to Consent to Proceed Before a US Magistrate Judge, noting "it is the responsibility of the case filer to serve a copy of this Notice upon all parties" (ECF #6). To comply, on 17 March 2025, I mailed a copy of this form by first-class international post (with USPS tracking) pursuant to N.M.R. Civ. P. Dist. Ct. 1-005(B), alongside a printout of the civil docket for the case #: 1:25-cv-00228-GJF-JMR to the Defendant's address on their websites (**Exhibit A**). However, my package was undeliverable and returned to me (**Exhibit B**) because the address is non-existent. This means the address for service on the Defendant's websites is erroneous. Despite emailing the Defendant to point out this error (**Exhibit C**), it still remains on the Defendant's sites; they unreasonably refused to respond to me or correct it.²

I later discovered a similar named address (**Exhibit D**) to the non-existent address connected to the Defendant (the address contains the same building number/street name but instead of an "Av NE" was "Blvd SE"³). However, I soon found out that the Defendant moved the RationalMedia Foundation from that address to a registered agent (ECF #14).⁴ I found this information by searching New Mexico businesses portal (**Exhibit E**). Legal filings show the Defendant moved their address on 26 February

¹ 122 Girard Av NE Albuquerque, NM 87106.

² Note the incorrect address still appears on the Defendant's Legal FAQ under "Contact Information" (**Exhibit A**): https://rationalwiki.org/wiki/RationalWiki:Legal_FAQ#Contact_information.

³ 122 Girard Blvd SE Albuquerque, NM 87106.

⁴ 1209 Mountain Road Pl NE, Albuquerque, NM 87110.

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⁵ https://rationalwiki.org/wiki/RationalWiki:RationalMedia_Foundation

2022 (**Exhibit E**) but irresponsibly failed to update their website(s) to reflect that change (ECF #17); the post I sent to this address was undeliverable since the addressee was not recognized at the property or the recipient refused the delivery (**Exhibit F**). Subsequently, this resulted in me filing a motion for miscellaneous relief (ECF #11) [for costs of service on the earlier wasted postage costs (**Exhibit G**).]

After discovering the registrant agent for the Rational Media Foundation, I served them several documents by post (which are listed in ECF #15), including (a) my notice of a lawsuit and request to waive service of a summons and (b) waiver of the service of summons forms. These forms were filled in and dated 27 March 2025 (although took a few days to arrive at post office). On 8 April 2025, they were served by 1st class international mail since I received proof of delivery (ECF #15) (**Exhibit H**). As a precaution, I mailed the same waiver forms separately to Trent Toulouse, who is the "operations manager" of the Rational Media Foundation. He is also described as "chief operating officer" on New Mexico businesses portal (**Exhibit E**). It should be noted that the Rational Media Foundation (RMF) is synonymous with the Rationalwiki Foundation (registered as latter, but it does business as former). As proof I separately mailed Mr. Toulouse the waiver of service of summons forms, I have a postage receipt (**Exhibit I**) dated 24 March 2025. If it is considered my separate package took nine days to deliver (from 31 March to 8 April), this would mean that Mr. Toulouse was served on/around 2 April. I additionally emailed Mr. Toulouse a copy of these forms and requested for convenience (since I live in the UK) that he sends me the completed waiver forms by email if he did not want to do so by post (to save time); this email was also sent to Rational Media Foundation (Exhibit J). To date, I have not received a single response; further, the Defendant has ignored all my communication on other matters.

⁶ International standard letter. Unlike my other package sent by 1st class international mail (ECF #15), I did not use tracked delivery to send the forms since I could not afford the duplicated postage costs.

30 DAYS HAVE PASSED

Fed. R. Civ. P. 4(d)(1)(F) allows Defendants in the US a "reasonable time of at least 30 days after the request was sent" to return waiver forms. I wrote on my waiver request that I would accept return by email (by scan and upload) if the Defendant did not want to post it (to save time), although I also accepted mail delivery to my address at: 7 Aldenham Road, Radlett, Hertfordshire WD7 8AU, England (UK). It has now been over 30 days since sending the request to waiver service of summons on 24 March 2025 (Mr. Toulouse) and on 27 March 2025 (RationalMedia Foundation), although the latter took a few days to arrive at post office. Neither have responded or returned a (signed) waiver form to me, despite having proof of delivery. They have also ignored all other communications (over the past two months), including ADR and my attempt to settle out of court. The date I wrote on (a) the notice of a lawsuit and request to waive service of a summons and (b) waiver of the service of summons form was 27 March 2025 meaning the Defendant had 30-days from that date – 26 April – to return a waiver form. However, in good faith, I gave the Defendant two extra days until filing this motion, but no response or returned waiver has been received nor has the Defendant made appearance.

FED. R. CIV. P. 4(D)(2)

Fed. R. Civ. P. 4(d)(2)(A) allows plaintiffs to recover their "expenses later incurred in making service", provided that Fed. R. Civ. P. 4(d)(1) are complied with which I did: I mailed (a) the notice of a lawsuit and request to waive service of a summons and (b) waiver of the service of summons form to both a corporation officer (Mr. Toulouse) of RationalMedia Foundation⁸ (**Exhibit I**) and their

⁷ In other words, the date it was mailed.

⁸ 1712 Morningrise Pl SE, Albuquerque, NM 87108.

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registered agent⁹ (**Exhibit H**). The former was sent on 24 March, while the latter on 27 March 2025. A copy of (a) can be read at ECF #16 (note that the copy I sent to Mr. Toulouse had his name added). To comply with Fed. R. Civ. P. 4(d)(1)(C) I mailed a copy of my complaint and two waiver forms (ECF #15) but there was an issue of a "prepaid means of returning the form" because I live in the UK and have not been easily able to find a prepaid package. However, as a suitable remedy I placed \$5 in the post (**Exhibit K**) with the other legal documents, alongside an envelope with my address written on it. To date, the Defendant has not returned the waiver form to me but has taken the money (\$5). All other aspects of Fed. R. Civ. P. 4(d)(1), I have complied with: the notice I sent informed Defendant about consequences of waiving and not waiving service and provided the date when request was sent (dated 27 March, although it was mailed even earlier to Mr. Toulouse [on 24 March]). The Defendant further ignored my email (**Exhibit J**) about waiving service of the summons, and it is apparent they have missed their opportunity to do so and have failed to even make an appearance despite informed.

The Defendant has no valid reason ("good cause") not to have returned the waiver. As clarified by the Fed. R. Civ. P. 4 advisory committee's note (1993), "good cause" for failure with a request for waiver "should be rare" providing only two examples: (1) the defendant did not receive the request and (2) the defendant is insufficiently literate in English to understand the waiver. Neither of these apply in this case. There is clearly proof that the Defendant (RationalMedia Foundation) received my waiver request since I have proof of delivery from the USPS (**Exhibit H**). Secondly, there is evidence that Mr. Toulouse received the duplicates of the request to waive service of summons forms which were mailed to him; this evidence consists of fellow board members of the RationalMedia Foundation acknowledging that I had sent the waiver request on the RationalWiki website. For these reasons, I

⁹ 1209 Mountain Road Pl NE, Albuquerque, NM 87110.

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respectfully request that I am entitled to be reimbursed for costs of service in accordance with Rule 4(d)(2)(B) I spent on postage. Fed. R. Civ. P. 4(d)(2)(B) emphasizes imposition of costs is mandatory i.e., "[T]he court shall impose the costs...") (emphasis added) in instances when defendants do not return a (signed) waiver form despite requested within the 30-day time period without "good cause".

COSTS REQUESTED

I hereby request my expenses as postage costs under Fed. R. Civ. P. 4(d)(2):

- International standard letter: £4.20 (GDP) = \$5.59 (USD).¹⁰
- 1^{st} class international mail with tracking: £12.40 (GDP) = \$16.51 (USD). 11
- The five-dollar bill I attached as an alternative for prepaid package: \$5 (USD).
- Envelope/package costs: £1 (GDP) = \$1.33 (USD).

Total: \$28.43

As a final note, reimbursement of these postage costs means a lot to me since I have very little income (only a disability benefit). The Defendant knows this, and it is possibly their legal strategy to unfairly waste my postage costs in the attempt to get me to give up. That will not happen, and I will now proceed to serve my complaint with a summons. The Defendant has not yet made an appearance (but is unlikely to do so). I will soon file an application for a Court clerk to seal summons for service.

Dated: 28.04.2025 (28 April 2025)



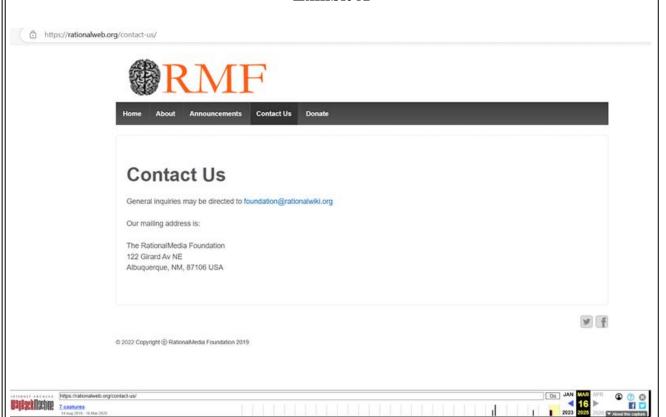
Oliver D. Smith, pro se.

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¹⁰ For postage receipt see **Exhibit I**.

¹¹ For postage receipt see **Exhibit L**.

Exhibit A





Who is RationalWiki? Who owns RationalWiki?

RationalWiki is one of the largest skeptical and rational-based content producers on the internet, covering a wide range of topics. For more details take a look at our article on ourselves, RationalWiki, and our newcomers guide.

RationalWiki is owned and operated by its members through the non-profit RationalMedia Foundation. The Foundation is run by a board of trustees who are long term members of the site, and elected by RationalWiki users.

Contact information

To contact the Foundation for most orders of business please e-mail us: foundation@rationalwiki.org

The Foundation mail address is:

The RationalWiki Foundation 122 Girard Avenue

Albuquerque, NM, 87106, USA

Exhibit B





Tue, Mar 25, 9:34 PM (19 hours ago) 👌

Hello Oliver,

Your package has a delivery exception. Your item was returned to the sender on March 25, 2025 at 3:29 pm in ALBUQUERQUE, NM 87106 because of an incomplete address.





Exhibit C 1 2 Smith v. RationalMedia Foundation, 1:25-cv-00228 - Service and complaint about unreasonable behaviour by the 3 RMF D Oliver D. Smith <oliveratlantis@gmail.com-3:46 PM (1 hour ago) ☆ ② ← I 4 to ttoulouse1, legal, foundation • 5 The RMF's website appears to provide an incorrect address: RationalMedia Foundation 122 Girard Av NE Albuquerque, NM 87106 6 https://rationalweb.org/contact-us/ 7 I tried to serve legal documents here but the address was not recognised and is incorrect. I then discovered the correct address: 8 RationalMedia Foundation 122 Girard Blvd SE, Albuquerque, NM 87106 9 Can you immediately please correct this error on your websites (also on RationalWiki.org [under Legal FAQ])? 10 Secondly, I urgently request you remove these uploads: https://rationalwiki.org/wiki/RationalWiki:Saloon_bar#RationalWiki_got_sued_sgain_28twice.29 11 Oliver 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28

Exhibit D

Org Council

Home » New Mexico » Albuquerque »

Rationalwiki Foundation

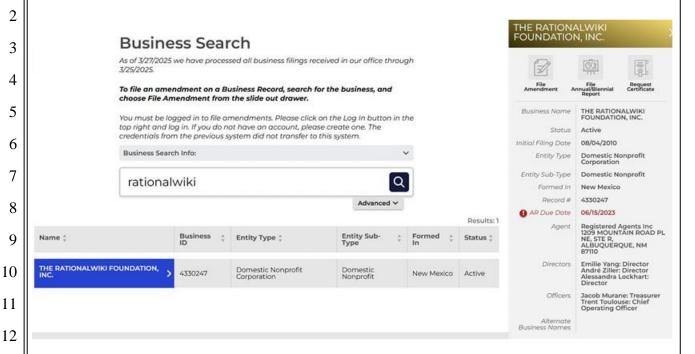
Rationalwiki Foundation is an educational organization in Albuquerque, New Mexico. Its tax id (EIN) is 27-3197280. It was granted tax-exempt status by IRS in January, 2024. For detailed information such as income and other financial data of Rationalwiki Foundation, refer to the following table.

Enter name and/or address... Search!

Profile of Rationalwiki Foundation

Organization Name	Rationalwiki Foundation	
Organization Nume	(Adonalwin Foundation	
Tax Id (EIN)	27-3197280	
Address	122 Girard Blvd Se, Albuquerque, NM 87106-2228	
In Care of Name	Trent Toulouse	

Exhibit E



mendment - 02/26/2022						
Filing Type	Field Name	Changed From	Changed To			
Amendment Filing # 2212982	Registered Agent	CHARLOTTE MARY TOULOUSE	Registered Agents Inc			
Date 02/26/2022						

- 11 -

USPS® Delivery Exception LE835773872GB > Inbox ×

Exhibit F

auto-reply@usps.com

UNITED STATES POSTAL SERVICE®

Hello Oliver Smith,

Your package has a delivery exception. Your item was returned to the sender on April 2, 2025 at 10:18 am in ALBUQUERQUE, NM 87106 because the addressee was not known at the delivery address noted on the package.

5:24 PM (42 minutes ago)

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Reminder: This item requires a signature for delivery. If you can't sign in person, you can authorize someone else to sign.

Tracking Number: <u>LE835773872GB</u>

Exhibit G

CERTIFICATE OF POSTING

Radlett
361 Watling Street
Radlett
Hertfordshire
WD7 7LB

Posting date: 17/03/2025 15:37
Session ID: 2-524257
After last acceptance time?

Destination Country
Address Validated? USA
Int Tracked Large Letter £10.60
Weight Conditions Accepted? 0.058 kg

Reference number
LEF7295633568
Building Name or Number Postcode
122 GIRARD AV NE 87106
End to end tracking at royalmail.com.

PLEASE REFER ID SEPARATE TERMS AND
CONDITIONS

For information about Royal Mail services,
please visit www.royalmail.com

PLEASE REFERIALN AS YOUR PROOF OF POSTING
This is not a financial receipt
Thank You

Exhibit H

USPS® Item Delivered, Left with Individual LA056305017GB > Inbox x





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auto-reply@usps.com





Hello oliveratlantis gmail com,

Your item was delivered to an individual at the address at 4:25 pm on April 8, 2025 in ALBUQUERQUE, NM 87110.

UNITED STATES
POSTAL SERVICE®

Tracking Number: LA056305017GB

Delivered, Left with Individual



Tracking Number:

LA056305017GB





Copy Add to Informed Delivery

Latest Update

Your item was delivered to an individual at the address at 4:25 pm on April 8, 2025 in ALBUQUERQUE, NM 87110.

⊘ Delivered

Delivered, Left with Individual

ALBUQUERQUE, NM 87110 April 8, 2025, 4:25 pm

See All Tracking History

Exhibit I

Exhibit J

Smith v. RationalMedia Foundation, 1:25-cv-00228 - REQUEST TO WAIVE SERVICE OF A SUMMONS 😝 🖸



Hi,

Please see attached forms. I also served these by post and have proof of delivery but have uploaded them online for convenience since you can return the form to me by email if you choose to waive service of summons which I advise to save time and costs of serving a summons and it will give you extra time to respond to my complaint. Alternatively you can send the completed waiver form to me by post at following address:

7 Aldenham Road, Radlett, Hertfordshire WD7 8AU, England (UK)

Oliver

2 Attachments • Scanned by Gmail ①





Exhibit K

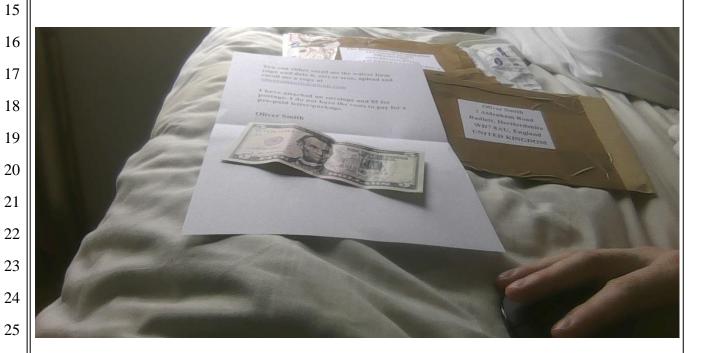
Tesco Borehamwood Extra

DRANSACTION 10 DATE TIME
1196-99-120301 Pri Mai 20/5 1/300

Sales Consultant (169/56)

United States Collar 5.00
We Stil Currency # 1.236
United Kingdom Pound 4.05
Nett Commission 0.00
Ret Commission 0.00
Fee(5) Sub-Total

Transaction Sequence No: #11/9/C



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Exhibit L

